

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 11368. PT-WO PM/Fi	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/005610	International filing date (day/month/year) 25.05.2004	Priority date (day/month/year) 11.07.2003
International Patent Classification (IPC) or national classification and IPC A61C3/025		
Applicant FERTON HOLDING S.A.		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.	
2.	This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.	
3.	This report is also accompanied by ANNEXES, comprising: a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>7</u> sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).	
4.	This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application	

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-12 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-28 _____ received by this Authority on 08.02.2005 with letter
- nos.* _____ received by this Authority on of 04.02.2005
- ☒ the drawings:
- sheets 1/5-5/5 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 1-28, received on 08.02.2005

because:

☐ the said international application, or the said claims Nos. _____
relate to the following subject matter which does not require an international preliminary examination (*specify*):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-28
are so unclear that no meaningful opinion could be formed (*specify*):

See Supplemental Box

☐ the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claims Nos. _____

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	<u>2, 5-12, 14-29</u>	YES
	Claims	<u>1, 3, 4, 13</u>	NO
Inventive step (IS)	Claims	<u></u>	YES
	Claims	<u>1-29</u>	NO
Industrial applicability (IA)	Claims	<u>1-29</u>	YES
	Claims	<u></u>	NO

2. Citations and explanations (Rule 70.7)

2 Originally submitted claims 1-29:

2.1 Reference is made to the following documents:

D1: EP 0290011
D2: JP 2002 165806
D3: US 4276880
D4: US2003/013064

2.2 The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 lacks novelty (PCT Article 33(2)).

Document D1 discloses (the references between parentheses refer to that document):

nozzle piece (1) for a dental powder jet device, which is designed to be detachably mounted on a handle piece (see column 1, lines 6-8) and comprises a discharge nozzle (2) for discharging air mixed with a dental powder suitable for cleaning the teeth, a forward partial length at

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>the discharge cross-section of the discharge nozzle (2) outwardly projecting beyond a grip part of the nozzle piece (1) attached to the handle piece (see column 1, lines 6-8) and being in the shape of a tube and the discharge cross-section of the discharge nozzle (2) having a small number of nozzle apertures (4) in the generated surface of the front end of the tubular partial length of the nozzle piece (2).</p> <p>2.3 Dependent claims 2, 5, 6, 10-12, 20, 21 and 24 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step; see the passages of text in documents D2 - D4 that are listed in the search report.</p> <p>2.4 Dependent claims 7-9, 14-19, 22, 23 and 25-29 contain a number of additional advantageous features relating to different structural configurations of the nozzle piece which is mentioned in claim 1 and which is not allowable, and moreover do not contribute directly to solving the problem addressed by claim 1, any combination, subject to PCT Article 33(1), of those features appearing not to yield subject matter involving an inventive step.</p>

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box III**Non-establishment of opinion with regard to novelty,
inventive step and industrial applicability**

1 **Claims 1-28**, submitted 08.02.2005

1.1 The new claim 1 is supported, *inter alia*, by the original claims 1 and 20 and by page 10, line 15 (eddy formation within the treated gum pocket) of the original description. This relates to substantive matter in respect of which no search was carried out, since eddy formation is not claimed in any of the originally submitted claims. Moreover, said wording appears to refer to a method for using the device and not to the definition of the device in terms of its technical features. In addition, an attempt is made to define the subject matter by the result to be achieved; thus only the problem to be solved is defined, without the technical features needed to achieve that result being specified. Therefore, contrary to PCT Article 6, the intended limitations are not clear from the claim.

1.2 For these reasons, the new claims 1-28 are not taken into consideration in this international preliminary report on patentability. The report instead looks in Box V at the originally submitted claims 1-29.